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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,797	04/02/2004	Doru Calin	29250-001068/US	9920
32498 7590 04/23/2008 CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC P.O. BOX 1995 VIENNA, VA 22183				
EXAMINER KAMPURIA, SHARAD K				
ART UNIT 2617		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/815,797

Applicant(s)

CALIN ET AL.

Examiner

Sharad Rampuria

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Disposition of the claims

I. The current office-action is in response to the Amendment filed on 01/17/2008.

Accordingly, Claims 1-49 are pending for further examination as follows:

Drawings

II. The drawings are objected to under 37 CFR 1.83(a) because they fail to show **“needed details, for the items shown in Fig.1,** as described in the specification.” Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 101

III. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 4, is directed to non-statutory subject matter.

The language of the claim raises a question as to whether the claim is directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful, and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

Claim 4, is assigning a human, “i.e., a natural phenomenon, or law of nature, and is not directed to a practical application of such judicial exception (e.g., because the claim does not require any physical transformation and the invention as claimed does not produce a useful, concrete, and tangible result.” Therefore it is non-statutory subject matter.

Claim Rejections - 35 USC § 102

IV. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-4, 8-12, 16-20, 22-23, 27-29, 33-37, 41-49 are rejected under 35 U.S.C. 102 (b) as being anticipated by **Bonta** [US 6014565 A].

As per claim 1, Bonta teaches:

A method for setting a number of base stations that can be considered hand-off base stations (i.e. Abstract, Col.4; 33-40) comprising the steps of:

Measuring real-time traffic flow criteria associated with one or more base stations; setting a number of base stations that can be considered hand-off base stations, from a neighbor list of potential hand-off base stations, depending on the measured traffic flow. (e.g. A variety of criteria may be used to determine how many BTSs having the first successful connections, may be used. The simulations performed for application of the third, or "first pass" algorithm, may be repeated under various load conditions in order to further prune or enhance the handover neighbor list. This approach will provide handover coverage for the substantial majority of situations which may possibly be encountered in a radiotelephone system. In addition, this approach allows for interference variables to be considered, thus eliminating marginal neighboring BTSs from being added to the handover neighbor list. Moreover, simulations may be performed using a variety of traffic channels assigned to a source BTS, again, to eliminate marginal neighboring BTSs, or to identify frequency planning problems that may impact selection of neighboring BTSs for the handover neighbor list and subsequent call quality; Col.10; 21-40)

As per claims 3, 22, Bonta teaches the method as in claims 1, 20, respectively, further comprising the step of maintaining an initial neighbor list and generating an adaptable neighbor list of potential hand-off base stations based on traffic flows. (e.g. Col.10; 21-40)

As per claims 4, 23, Bonta teach the method as in claims 1, 20, respectively, further comprising setting the size of the adaptable neighbor list without requiring human intervention. (e.g., Col.9; 31-51).

As per claims 8, 27, Bonta teaches:

The method as in claims 1, 20, respectively, further comprises the step of forwarding the varied, adaptable neighbor list to the wireless device. (Col.10; 21-40)

As per claim 9, Bonta teaches:

The method as in claim 1 wherein the wireless device is operable to enable the hand-off. (Col.10; 21-40)

As per claim 10, Bonta teaches:

The method as in claim 1 wherein the at least one base station on the varied list is operable to enable the hand-off. (Col.9; 31-51)

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Claims 11, 16-17, 19-20, 28, 33-34, 36-37, 41, 43-44, 46, are the **method, system**, claims, corresponding to **method** claim 1 respectively, and rejected under the same rational set forth in connection with the rejection of claim 1 respectively, above.

As per claims 12, 18, 29, 35, 42, 45, Bonta teach the method as in claims 11, 17, 28, 34, 41, 44, respectively, further comprising the step of preventing said base station from handing-off said call when said traffic flow criteria does not meet said acceptable level. (e.g. threshold; Col.5; 20-28)

As per claims 47-49, Bonta teaches:

The method as in claims 20, 37, wherein the measurement step further comprises:

Measuring the level of one or more pilot signals, each pilot signal associated with a potential hand-off base station included in the neighbor list (e.g., Col.10; 21-40)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any

evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 2, 5-7, 13-15, 21, 24-26, 30-32, 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonta in view of Celedon et al. [US 20030190916].

As per claims 2, 21, 38, the above combinations teaches all the particulars of the claim except the step of varying the size of the neighbor list so that the size is set below an initial size to prevent a return to an overload traffic condition. However, Celedon teaches in an analogous art, that the method as in claims 1, 20, 37 respectively, further comprising the step of varying the size of the neighbor list so that the size is set below an initial size to prevent a return to an overload traffic condition. (Pg.2; 0024) Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention to modify Bonta including the step of varying the size of the neighbor list so that the size is set below an initial size to prevent a return to an overload traffic condition in order to provide a method of optimizing neighbor lists by automatically removing and adding cells to overcome the disadvantages of the existing solutions.

As per claims 5-6, 24-25, 39-40, the above combinations teaches all the particulars of the claim except decreasing/increasing the size of the adaptable neighbor list as the traffic flow criteria worsens/improves. However, Celedon teaches in an analogous art, that the method as in

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claims 1, 20, 37 respectively, further comprising decreasing/increasing the size of the adaptable neighbor list as the traffic flow criteria worsens/improves. (Pg.2; 0028)

As per claims 7, 26, the above combinations teach all the particulars of the claim except the number of base stations included in the adaptable neighbor list of potential hand-off base stations is less than a maximum number of base stations included in an initial neighbor list. However, Celedon teaches in an analogous art, that the method as in claims 1, 20, respectively, wherein the number of base stations included in the adaptable neighbor list of potential hand-off base stations is less than a maximum number of base stations included in an initial neighbor list. (Pg.3; 0037)

As per claims 13-15, 30-32, the above combinations teach all the particulars of the claim except a value of the threshold may change over time. However, Celedon teaches in an analogous art, that the method as in claims 11, 28, respectively, wherein a value of the threshold may change over time. (i.e. threshold are variable; Pg.3; 0034)

Response to Amendments & Arguments

V. Applicant's arguments with respect to claims 1-49 has been fully considered but is moot in view of the new ground(s) of rejection.

Conclusion

VI. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharad Rampuria whose telephone number is (571) 272-7870. The examiner can normally be reached on M-F, (8:30-5 EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on (571) 272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000 or

EBC@uspto.gov.

/Sharad Rampuria/
Primary Examiner
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